United Nations S/AC.37/2004/(1455)/36

Security Council

Distr.: General
9 June 2004
English
Original: Arabic

Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 24 May 2004 from the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Libyan Arab Jamahiriya to the United Nations in New York presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities and has the honour to transmit to him the report submitted by the Libyan Arab Jamahiriya pursuant to paragraph 6 of Security Council resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 24 May 2004 from the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Chairman of the Committee

REPORT OF THE LIBYAN ARAB JAMAHIRIYA ON THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1455 (2003)

I. INTRODUCTION

The role of Osama bin Laden in establishing camps to take in Arab and Afghan volunteers and provide them food and training during their presence in Afghan territory affected the formation of the Al-Qaida organization. This subsequently led to the development of what is known as the World Islamic Front for Jihad Against Jews and Crusaders, which announced itself in February 1998. It was joined by a group of Arab organizations, one of which was known as the Libyan Islamic Fighting Group.

Thanks to these connections, Osama bin Laden recruited a large number of Libyan youths and brought them into his organization. Some of them worked with him as personal bodyguards in Afghanistan and the Sudan, while others collaborated with him on investment projects. Such was the case of Ibrahim Ali Abu Bakr Tantush, also known as Abd al-Muhsin al-Libi, whose name appears on the list of individuals and entities belonging to the Al-Qaida organization and the Taliban prepared pursuant to Security Council resolution 1267 (1999). He was director of the Revival of Islamic Heritage Society in Peshawar and was accused of transferring funds to the Al-Qa'ida organization.

According to the findings of documented investigations, Bin Laden worked in coordination with the Libyan Islamic Fighting Group on the planning and execution of terrorist operations, which included attempts to bring in weapons across the Libyan border and deliver them to Algerian elements belonging to the Algerian Armed Islamic Group. Then there were the findings of the investigations relating to the killing of a German national, Silvan Becker, and his wife in the Libyan town of Syrte at the hands of members of the Islamic Fighting Group, which belonged to the Al-Qa'ida organization, in March 1994, in the wake of which the Libyan authorities, at the request of the international police (Interpol), issued a warrant for the arrest of Osama bin Laden on charges of murder and unlawful possession of weapons.

It is worth noting that the elements that carried out that act and Osama bin Laden's arrangements are still wanted and that their organizational connection to the Al-Qa'ida organization has been confirmed. They are:

1. Faraj Hasan Husein al-Shibli;

2. Faez Abu Zeid Muftah al-Warfali.

As to the Taliban movement, there is no evidence of any existence of it in the Jamahiriya, nor are there any precedents to indicate that it might have any activities in the country.

II. THE CONSOLIDATED LIST

The General People's Committee for Public Security (Ministry of the Interior) has taken the necessary steps for putting into force the consolidated list, with full coordination among the competent bodies.

It should be mentioned that the list does not contain complete names. The data relating to those names is fundamentally flawed; consequently, it is not possible to make full use of them and the desired result cannot be achieved. The names must be constantly updated, any new particulars being added to them. With the help of the States to which the persons in question belong, data might be added that would help in the

process of full identification. This might include the addition of pictures of the persons whose names are on the list.

There is nothing to indicate the presence of any of the suspects within the territory of the Jamahiriya.

A list of persons cooperating with Osama bin Laden whose names have not been included in the consolidated list will be forwarded to you under separate cover. In accordance with the established legal procedures, all cases involving such persons have been turned over to the judiciary. Consequently, the lists to be forwarded subsequently will include their names, together with the proposal that they should be added to the consolidated list.

It turns out that the names appearing in the list under item (c), numbers 6, 17, 20 and 31, relate to Libyan nationals whose place of residence is currently unknown and who are believed to be outside the country. Another name inserted by the Committee on 12 November 2003 under No. 29, among those of 15 individuals, is Faraj Farj Hasan al-Sa'idi, also known as Muhammad Abdullah 'Imad and as Hamzah al-Libi (Hamzah the Libyan).

With regard to any Non-Libyans resident in the country, investigations carried out revealed the presence in the country of a member of the Al-Qa'ida organization from Morocco for the purpose of coordinating terrorist acts internally within the framework of cooperation with Al-Qa'ida and what is known as the Libyan Islamic Fighting Group (the investigations indicate that he is from Morocco, and we shall provide you with additional information in this regard at a later time).

No Al-Qaida training camps exist within Libyan territory. Moreover, Libyan law prohibits recruitment and support for operations against foreign States. Indeed, article 168 of the Penal Code provides as follows: "Rallying against a foreign State without the permission of the Government or carrying out other hostile acts likely to expose the Libyan Arab Jamahiriya to the danger of war are punishable by imprisonment".

Article 206 provides: "The death penalty is incurred by anyone who calls for any assembly, organization or formation prohibited by law; undertakes the establishment, organization, management or financing or prepares a place for the meetings thereof; becomes a member thereof or urges others to do so by any means whatsoever; provides any assistance thereto; or receives or obtains, whether directly or indirectly, by any means whatsoever, money or benefits of any kind or aids any person or entity for the purpose of bringing about such prohibited assembly, organization or formation or preparing the way for it to be brought about. The penalty shall apply equally to leaders and subordinates, irrespective of their rank in the assembly, organization, formation or the like, and regardless of whether the headquarters of such assembly is within the country or without."

It is clear from the preceding two texts that recruiting and carrying out hostile acts against foreign States are prohibited regardless of the State against which they are committed, irrespective of the nature of the hostile acts and regardless whether they are committed directly or indirectly, or in other words, regardless whether the act committed is in itself a hostile act or assists or supports such an act. The same applies in respect of assistance to prohibited organizations or assemblies. In Libya all assemblies and organizations are prohibited insofar as they are outside the Basic People's Congresses, which include all Libyan citizens.

Though Libyan laws contain no provisions regarding the Al-Qa'ida organization per se or other organizations of that nature, they do criminalize any act that includes assistance or support to or the recruitment of persons. Consequently, there is no need for urgent legislative measures at this time.

III. FREEZING OF FINANCIAL AND ECONOMIC FIXED ASSETS

Under Libyan law any funds that are unlawful as to their source, cause, purpose or manner of use may be frozen; therefore any funds used for terrorist acts or other criminal acts may be frozen or seized.

Circular No. 1 issued by the Governor of the Central Bank of Libya on 28 May 2002 indicated the mechanism for ascertaining the nature and manner of use of sums deposited with banks and the modalities for reporting questionable transactions. The Central Bank updated a number of administrative units and jobs concerned with investigating accounts and reporting, namely:

1. The financial information unit within the Central Bank of Libya;

2. Supervisor of the Bank's general unit for combating money-laundering;

3. The bank branch money-laundering supervisor.

Supervisors have been appointed at all commercial banks and bank branches as well as at specialized private banks and insurance companies.

The aforementioned circular of the Governor of the Central Bank of Libya spells out the mechanism for reporting irregular operations, as follows:

1. All banks of various descriptions, money-changing offices and other financial institutions, as well as the secretaries and members of the their People's Committees, the chairmen and members of their boards of directors and managing committees and employees, are personally required to report any unusual financial transaction aimed at money-laundering to the financial information unit of the Central Bank of Libya or other authorities or bodies designated in the future by the Central Bank of Libya.

2. With a view to facilitating the process of checking banking transactions suspected of being aimed at money-laundering that take place through banks and money-changing offices in particular, as well as other financial institutions, those institutions are required to submit reports on such cases to the financial information unit at the Central Bank of Libya and to fill in the related form.

Article 18 of the said circular provides that whenever the Central Bank of Libya learns of any money-laundering activities concerning which it is in possession of sufficient proof, it must submit a report thereon to the authorities charged with implementing the law.

Inasmuch as during the previous period, since the adoption of the procedures relating to the fight against money-laundering and the circulation of the procedures and information issued by the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities (Al-Qaida and Taliban Sanctions Committee), no money-laundering operations have been observed in Libyan banks and no banking transactions have been recorded either at home or abroad involving any of the persons or entities included in the resolutions on sanctions and the freezing of funds, there has been no report of any operations in any of the forms or manners for which reporting is required, including suspicious transaction reports (STR). Nor have Libyan banks been informed or notified of any suspicious transactions having taken place at foreign banks outside the Jamahiriya.

IV. TRAVEL PROHIBITIONS

According to the Great Green Document on Human Rights, the right of travel and movement is guaranteed as a natural right exercised by every citizen. By way of exception to this principle, judicial and administrative measures may be taken to prohibit travel by any citizen in the event of violation by him of any of the laws in force that require the taking of preventive measures of that nature against him. In any event, in cases relating to terrorism, travel-prevention measures are taken without exception.

The names of the individuals included in the list have been entered in the computer system, which is now in use at all the border-crossing points in the Jamahiriya.

Updated lists, which are sent out periodically, can be searched electronically at all entry-exit points.

To date, no arrests of individuals whose names appear in the list have taken place.

According to the rules of procedure in force in the public administration of passports and nationality in Libya, any entry into the country entails reference to the basic information list, which is consequently an absolute requirement.

V. BAN ON WEAPONS

Trading and dealing in weapons in Libya is limited to the public authorities. Consequently, the sale, import, export or transport of weapons may take place only with the knowledge of the competent authorities in the public security bodies.

Inasmuch as the possession and acquisition of weapons are the object of a general and all-inclusive prohibition under the law, it is not likely that nationals or aliens will undertake to deal in arms within Libyan territory. Anyone who does so will incur the deterrent penalty, inasmuch as article 3 of Act No. 7/1981 provides as follows:

"The possession, acquisition, purchase, sale, delivery, transport or tendering of any weapons, ammunition or explosives for the purpose of trade, or trading therein in any manner whatsoever, under conditions other than those specified by law, shall be punishable by life imprisonment.

The possession of any weapons, ammunition or explosives, without a permit issued in accordance with the provisions of the said Act (Arms and Munitions Act) and other laws and regulations aimed at bringing about the creation of the Armed People, shall be punishable by imprisonment. In the case of hunting weapons, however, the penalty shall be detention.

On examining the Arms and Munitions Act, we find that it lays down stringent conditions for the granting of permits for the possession and carrying of weapons. It limits the bearing of arms to persons the nature of whose work so requires, such as policemen and members of the armed forces and the judiciary. The possession and carrying of hunting weapons, on the other hand, is permitted under licence by the General People's Committee for Public Security. However, a number of years ago such weapons were withdrawn from those possessing them out of security considerations and it is no longer permissible for anyone to bear them. Consequently, the possession and bearing of such arms and dealing in them constitute a punishable offence.

In view of the foregoing, it is unlikely that cases of sale or transport of weapons or related materials will occur within Libyan territory in connection with Al-Qa'ida or other organizations or persons.